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09/764,068	01/19/2001	Jeff Scott Eder		6669

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EXAMINER	
ZIEGLE, STEPHANIE M	

ART UNIT	PAPER NUMBER
3694	

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08/16/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/764,068	EDER, JEFF SCOTT	
	Examiner	Art Unit	
	STEPHANIE M. ZIEGLE	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *36-42,46-52,55-60 and 76-93* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *36-42,46-52,55-60 and 76-93* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *04/02/2011, 06/12/2011*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12 June 2011 has been entered.

Status of Claims

2. This action is in reply to the amendment filed on 12 June 2011.
3. Claims 36-38, 41, 46, 51, 55-56, 59, 76-78, 80, 82, 84-85, and 88-90 have been amended.
4. Claims 1-35, 43-45, 53-54 and 61-75 have been canceled.
5. Claims 36-42, 46-52, 55-60, and 76-93 are currently pending and have been examined.
6. The previous 112 1st rejections over claims 43-45 and 64-65 and 67-69 are withdrawn due to the claims being canceled all other 112 rejections are maintained.
7. A new 101 rejection is hereby added.

Response to Arguments

8. Applicant speaks to a number of supposed errors in the rejection of the claims in the present application. Examiner respectfully disagrees with the arguments and finds that the prior art references as applied in the Non-Final Office Action are proper, pertinent, and relevant in disclosing the claims as submitted.

9. Applicant argues that the prior art references teach away from the claimed invention. Examiner respectfully disagrees and does not find any instances where the prior art cited teaches away from the claims as presented in the present application. None of the prior art references relied upon in anyway discredit or criticize the claims as presented in this application. It is stated that "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

10. Applicant has argued that the cited references fail to teach or suggest one or more limitations of the claims. However, examiner contends that each limitation has been addressed by a proper reference and through proper combinations. Every limitation has been addressed in the Office Action, with each claim limitation mapped, and every word of the claim taken into consideration. Due to the lengthy rejection presented above, the claims and their respective mapping will not be reiterated here. However, examiner contends that a thorough review and mapping of the claims has been conducted in accordance with procedures of claim interpretation and analysis.

11. Applicant argues that the combination of references would not provide for functionality as described. However, examiner notes that the arguments presented are outside the scope of the claims and that as presented, the references are proper combinations yielding predictable results. The elements for which the references were relied upon, based on the analogous art as described above, would properly be combined with functionality as disclosed. For example, Bielinksi

discloses the use of modeling for representing organization data such that analysis can be performed to understand and study element contributions, values and effects. While Bielinski teaches a number of values used in modeling, Bielinksi does not teach market sentiment. Baur teaches market sentiment in analysis. Incorporating multiple values into a model is old and well known, even where Bielinksi discloses the inclusion of multiple variables. Examiner therefore contends that functionality would remain by using the models across the systems. Likewise, examiner asserts that combinations with the other references relied upon in the Office Action would provide for functionality when combined. A full analysis of why the references would be combined and the combination obvious is provided above, with motivations for combination which would provide for predictable results.

12. Applicant argues that Examiner has failed to explain the rationale for combining the teachings of the cited documents. However, in each instance of combination, the reason for the combination has been provided in terms of which limitations are taught by which reference, and a motivation for the combination has been provided. Examiner believes that proper combinations have been made and proper motivations and rationales set forth within the claim rejections. The courts have found that "A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references... The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). However, rejections on obviousness grounds cannot be sustained by mere conclusatory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See Lee, 277 F.3d at 1343-46; Rouffett, 149 F.3d at 1355-59. This requirement is as much rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decision making, as it is in § 103. See id. at 1344-45." In re Kahn, 78 USPQ2d 1329, 1336 (CA FC 2006). XXXXX "It is, of course, not necessary that either [prior art references] actually suggest,

expressly or in so many words, the changes or possible improvements appellant has made." In re Sheckler, 168 USPQ 716, 717 (CCPA 1971).

13. In response to applicant's argument that there is no suggestion to combine the references, the Courts have stated that "[a] suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references...The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art... there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (emphasis added) In re Kahn, 78 USPQ2d 1329, 1336 (CA FC 2006). Examiner asserts that "articulated reasoning" to support the legal conclusion of obviousness has been made.

14. With regards to Applicants claim that the rejections fail under APA standards, Examiner believes that the claims have been properly rejected. Examiner believes that the rejections as set forth in the Office Actions have addressed each claim limitation using prior art which addresses the claim limitations and that where any combinations of prior art were used to reject claims that proper evidence and motivation for such a combination has been provided. Therefore the Examiner asserts that both standards of the APA have been followed and that the Office Action is proper with respect to the evidence provided in rejecting the claims.

15. Likewise, Applicant has argued that examiner has failed to explain what would motivate someone to make the combinations as set forth above. However, examiner contends, again, the proper combinations and motivational statements have been provided. Evidence has been provided for the claim rejections, as provided above in the detailed mapping of each claim limitation, as well as with the motivation statements. Examiner contends that proper APA standards have been followed in all regards.

16. With regards to prior art arguments, examiner contends that the claims have been properly analyzed and rejected based on the prior art of record. Examiner contends that the level of detail in the claims has been properly considered, that the prior art has been properly mapped to the claim limitations, following all appropriate standards and procedures.

17. With regards to the arguments set forth regarding 112 first paragraph, examiner contends that the 112 first paragraph rejections are proper. Examiner has noted the phrases "an integrated database", "output said database" and "a physical object or substance" as the phrases which are unsupported in the initial disclosure. While it is not required that the exact and specific words be used in the initial disclosure as support for the language amended into a claim, the language is required to be supported by the initial disclosure. Examiner contends that the phrases above were amended into the claims, but that there is not support for the phrases. Support is founds in neither the use of specific and exact words, nor within provided or determined context from which the material can be obtained. In order to amend claims, the amendments must be supported by the initial disclosure be it in the drawings, specification or claims. However, upon presenting the amendments being discussed, there was no indication as to where support for these elements could be found, and examiner was unable to find support for these elements and therefore the 112 rejections were made. Examiner contends that the 112 rejections for new matter are proper and maintains the rejections.

18. The 112 second paragraph rejections are also argued. The 112 rejections as set forth above detail the lack of clarity found in the language and the rejections stand. Examiner contends that the meets and bounds of the claims are unclear based on the reasoning and rationale as detailed above and that the claims are unclear as presented. In each instance, the examiner stated what would be assumed for purposes of examination. In each case, the Appeal Brief notes that the examiner was incorrect. Examiner finds that supports the examiner's position that the claims are unclear as a reasonable interpretation of the claim limitation meets and bounds could not be inferred from the claim limitations as presented. Examiner finds that the 112 second paragraph rejections are proper and appropriate.

Claim Rejections - 35 USC § 112

19. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

20. Claims 36-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the initial disclosure in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim recites new matter with respect to elements of value "physically exist". The term is not found within the initial disclosure and therefore is improper to use within the claim limitations. Each claim limitation needs to be supported by a particular section in the initial disclosure in order to comply with the written description requirement.

Claim Rejections - 35 USC § 101

21. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

22. Claims 36-42 and 55-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. To satisfy 101 under the Bilski guidelines, for the claim as a whole the factor for eligibility must outweigh the factors against eligibility. These factors for eligibility include recitation of a machine or transformation, the claim is directed towards applying a law of nature, or the claim is more then a mere statement of a concept. The claims as written now, the factors against eligibility outweigh the factor for eligibility. Having an essential step in the method tied to a machine would satisfy the factors and would make the claims 101 eligible.

Claim Rejections - 35 USC § 112

23. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

24. Claims 36-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

25. Claims 36, 46, 55 and 72 recite in part "an enterprise/organization that physically exists". Examiner recommends removal of the term "that physically exists" as it is unclear how an enterprise physically exists. While an enterprise may operate in a physically structure or building, and contain physically components therein, an enterprise is generally considered to be an organization comprised of both physical and non-physical components.

26. Claims 36, 47, 55 and 75 recite in part that "elements of value physically exist and are selected from the group consisting of alliances, brands, channels, customers, employees, intellectual property, partnerships, processes, vendors and combinations thereof. However, it is unclear how these elements all physically exist. For example, while the elements of customers and employees physically exist, other elements such as alliances and partnerships do not physically exist. With respect to a brand, for example, the product with a brand name physically exists, but does the brand actually physically exist.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

29. Claims 36-37, 39, 41-42, 46-48, 55,58-60, 76-80, 82-86, 88, and 90-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over "How to sort out the premium drivers of post-deal value" by Daniel W. Bielinski (further referred to as Bielinski), and further in view of "The 1986-88 stock market: investor sentiment or fundamentals?" by Baur, Quintero and Stevens (further referred to as Baur).

As per claims 36 and 76

Bielinski discloses an enterprise method (pages 1-7), comprising:

Using a computer (pages 1-7) to complete at least one of the steps of:

Preparing data representative of an enterprise that physically exists for use in processing, and transforming at least a portion of the data into a linear or nonlinear model of an enterprise market value by a category of value by completing a plurality of multivariate analyses that utilizes said data (pages 1-7),

Where the model of an enterprise market value by category of value comprises as many as three linear or nonlinear component of value models, and optionally one or more real option models(page 1, section 2; page 2, section 7; page 3, sections 1-6 and 9; page 4, section 3; page 6, sections 4-5),

Identifying a tangible value contribution of each of the one or more elements of value to a value of each of the categories of value using said model of enterprise market value(page 1, section 1; page 2, sections 1 and 7; page 3, sections 1-9; page 4, sections 1-7; page 5, sections 1-7; page 6, sections 1-6).

Outputting said tangible value contributions(page 1, section 1; page 2, sections 1 and 7; page 3, sections 1-9; page 4, sections 1-7; page 5, sections 1-7; page 6, sections 1-6).

Bielinski does not disclose where an optional linear or nonlinear model of a market sentiment category of value. However, Baur discloses where an optional linear or nonlinear model of a market sentiment category of value (abstract; page 2, "Stock prices and investor

sentiment"; page 3, formula 3). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation modeling techniques as disclosed by Bielinski to adapt the use of sentiment as a value driver and pricing/value factor as disclosed by Baur. The motivation would be that stock price is calculated based on company value and a company value is derived from real and intangible assets of value and for most accurate pricing, one would want to incorporate all assets, real and intangible.

As per claims 37, 77, 84, and 90

Bielinski does not disclose completing one or more activities from the group consisting of the full list of activities as cited. However, Bieliski discloses completing activities from the group such as: using the tangible value contributions for each element of value to calculate a value for each element of value and creating a balance sheet report that includes the value for each of the elements of value and a value for each of the one or more financial assets associated with the enterprise (pages 1-5). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further completion of activities as are known to be a part of a group in the art.

As per claim 39

Bielinski does not disclose where a series of multivariate analyses are selected from the group consisting of the full list as cited in the claim. However, Bielinski discloses where a series of multivariate analyses are selected from the group such as identifying one or more previously unknown relationships between one or more value drivers, identifying one or more previously unknown relationships between one or more elements of value, quantifying one or more inter-relationships between value drivers, quantifying one or more impacts between elements of value, determining a net impact for each category of value, calculating one or more real option values, and combinations thereof (pages 1-7). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further multivariate analyses as are known to be a part of a group in the art.

As per claim 41

Bielinski also discloses the following: Where the model of an enterprise market value by category of value comprises a combination of one or more casual models selected from the group consisting of up to three linear or nonlinear component of value models, and one or more real option valuation models(page 1, section 2; page 2, section 7; page 3, sections 1-6 and 9; page 4, section 3; page 6, sections 4-5), Bielinski does not disclose a market sentiment model. However, Baur discloses where an optional linear or nonlinear model of a market sentiment category of value (abstract; page 2, "Stock prices and investor sentiment"; page 3, formula 3). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation modeling techniques as disclosed by Bielinski to adapt the use of sentiment as a value driver and pricing/value factor as disclosed by Baur. The motivation would be that stock price is calculated based on company value and a company value is derived from real and intangible assets of value and for most accurate pricing, one would want to incorporate all assets, real and intangible.

As per claims 42, 79, 83, and 93

Bielinski does not disclose where the elements of value [physically exist and] are selected from the group consisting of customers, employees, processes, and vendors. However, Bielinksi does disclose where the elements of value [physically exist and] are selected from alliances, employees, partnerships, processes and vendors (page 3, sections 1-5; page 4, sections 4-6). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further elements of value as are known to be a part of a group in the art.

As per claim 46

Bielinski discloses a non-transitory program storage device readable by a computer, tangibly embodying a program of instructions executable by a computer to perform steps (pages 1-7), comprising:

Preparing data representative of an enterprise that physically exists for use in processing, transforming at least a portion of the data into a linear or nonlinear model of each of one or more categories of an organization value (pages 1-7) that identify and output a tangible contribution of each of one or more elements of value (page 1, section 1; page 2, sections 1 and 7; page 3, sections 1-9; page 4, sections 1-7; page 5, sections 1-7; page 6, sections 1-6) to a value of a current operation and optionally a real option category of value (page 1, section 2; page 2, section 7; page 3, sections 1-6 and 9; page 4, section 3; page 6, sections 4-5), and

reporting the value contribution of the elements of value using an electronic display or a paper document (page 1, section 1; page 3, section 10; page 4, sections 4 and 6-7).

Bielinski does not disclose where a category of value is market sentiment. However, Baur discloses where a category of value is market sentiment (abstract; page 2, "Stock prices and investor sentiment"; page 3, formula 3). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation modeling techniques as disclosed by Bielinski to adapt the use of sentiment as a value driver and pricing/value factor as disclosed by Baur. The motivation would be that stock price is calculated based on company value and a company value is derived from real and intangible assets of value and for most accurate pricing, one would want to incorporate all assets, real and intangible.

As per claim 47

Bielinski does not disclose wherein the elements of value [physically exist and] are selected from the group consisting of brands, channels, customers, employees, production equipment, vendors and combinations thereof. However, Bielinksi does disclose where the elements of value are selected from alliances, employees, partnerships, processes, production equipment, vendors (page 3, sections 1-5; page 4, sections 4-6). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further elements of value as are known to be a part of a group in the art.

As per claims 48 and 86

The combination of Bielinski and Baur, as shown in the rejection above, discloses all of the limitations of claim 46. Bielinski also discloses wherein the tangible value contribution for each of one or more elements of value to each of the one or more categories of value further comprises a direct element contribution to a category of value net of any element of value impacts on other elements of value (page 1, section 2; page 2, section 1; page 3, sections 7-9; page 4, sections 1-4, 7; page 5, section 1; page 6, sections 5-6).

As per claims 55, 82, and 88

Bielinski discloses a future market value method (pages 1-7), comprising:

Using a computer (pages 1-7) to complete at least one of the steps of:

Preparing data representative of an organization [that physically exists] for use in processing, transforming at least a portion of the data into a linear or nonlinear model of each of one or more categories of an organization value (pages 1-7),

calculating a tangible value contribution of each of one or more elements of value to a future market value and to a value of each of the categories of organization value using said model (page 1, section 1; page 2, sections 1 and 7; page 3, sections 1-9; page 4, sections 1-7; page 5, sections 1-7; page 6, sections 1-6)

outputting the tangible value contribution of each of the one of more elements of value to the future market value and to the value of each of the categories of organization value(page 1, section 1; page 2, sections 1 and 7; page 3, sections 1-9; page 4, sections 1-7; page 5, sections 1-7; page 6, sections 1-6)

Where the categories of organization value comprise a current operation and a real option category and combinations thereof (page 1, section 2; page 2, section 7; page 3, sections 1-6 and 9; page 4, section 3; page 6, sections 4-5),

Bielinski does not disclose where a category of value is market sentiment. However, Baur discloses where a category of value is market sentiment (abstract; page 2, "Stock prices

and investor sentiment"; page 3, formula 3). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation modeling techniques as disclosed by Bielinski to adapt the use of sentiment as a value driver and pricing/value factor as disclosed by Baur. The motivation would be that stock price is calculated based on company value and a company value is derived from real and intangible assets of value and for most accurate pricing, one would want to incorporate all assets, real and intangible.

As per claim 58

Bielinski discloses wherein the contribution for each of the one or more elements of value to the value of each of the one or more categories of value further comprises a direct element of value contribution to the category of value net of any element of value impacts on other elements of value that contribute to said category of value (page 1, section 2; page 2, section 1; page 3, sections 7-9; page 4, sections 1-4, 7; page 5, section 1; page 6, sections 5-6).

As per claims 59, 80, 85, and 92

Bielinski does not disclose casual models selected from the group consisting of predictive component of value models, predictive market value models, relative element strength models, real option discount rate models, real option valuation models, market sentiment models and combinations thereof. Bielisnki discloses models selected from the group consisting of predictive component of value models, predictive market value models, relative element strength models, real option valuation models, and combinations thereof (pages 1-7). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further models as are known to be a part of a group in the art.

As per claim 60

Bielinski does not disclose where the elements of value [physically exist and] are selected from the group consisting of customers, employees, processes, and vendors. However, Bielinksi does disclose where the elements of value [physically exist and] are selected from alliances, employees, partnerships, processes and vendors (page 3, sections 1-5; page 4, sections 4-6). It is noted that the claim is set forth as a Markush claim and as such each of the items within the set are admittedly within a group known in the art. Therefore it would be obvious to provide further elements of value as are known to be a part of a group in the art.

30. Claims 57 and 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski and Baur as applied to claims 36 and 55 above, and further in view of Davis.

As per claims 57 and 81

Neither Bielinski nor Baur disclose the use of a flexible system architecture where said architecture further comprises event data that has been integrated in accordance with a common xml schema and independent components of application software that can be combined to process said data as required to produce useful results. However, Davis discloses the use of a flexible system architecture where said architecture further comprises event data that has been integrated in accordance with a common xml schema and independent components of application software that can be combined to process said data as required to produce useful results (column 8, lines 40-46 and lines 52-57; column 10, lines 31-33 and lines 52-55; column 11, lines 24-66; column 12, lines 45-56; column 13, lines 34-37; column 15, lines 60-67; column 18, lines 48-54; column 26, lines 65-67; column 27, lines 1-5; column 28, lines 31-34; column 30, lines 42-50; column 30, lines 51-60; column 33, lines 15-47; column 37, lines 5-8; column 38, lines 48-56) It would be obvious to one of ordinary skill in the art at the time of the invention to modify the data analysis for value drivers as disclosed by Bielinksi and Baur to adapt the use of integrating data using xml metadata as disclosed by Davis. The motivation would be that to understand the

overall value of an enterprise, it would be advantageous to gather data from various groups and departments and providing a common schema for doing so creates a more efficient means of sharing data, as disclosed by Davis.

31. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski and Baur as applied to claim 39 above, and further in view of US Patent 6,192,354 B1 to Bigus et al. (further referred to as Bigus).

As per claim 40

Neither Bielisnki nor Baur disclose wherein the predictive model algorithm is selected from the group consisting of neural network; classification and regression tree; generalized autoregressive conditional heteroskedasticity, regression; generalized additive; redundant regression network; rough-set analysis; Bayesian; multivariate adaptive regression spline and support vector method. However, Bigus discloses wherein the selected predictive model algorithm is Bayesian (column 12, lines 40-65; column 12, lines 28-33). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the use of optimization using predictive models as disclosed by Bielinksi and Baur to adapt the optimization of tasks using a Bayesian predictive algorithm as disclosed by Bigus. The motivation would be to use a well known algorithm which enables machine learning in order to improve the predictive results.

32. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski as applied to claim 46 above, and further in view of US Patent 5,245,696 to Stork et al. (further referred to as Stork).

As per claim 50

Bielinski does not disclose wherein the element of value contributions are identified by learning from the data However, Stork discloses learning from data. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the predictive modeling for optimization as disclosed by the Bielinksi to adapt the use of learning from the data, such as through genetic algorithms, as disclosed by Stork. The motivation would be to provide a means by which the modeling would continue to make better optimizations based on data and feedback.

33. Claims 49 and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski as applied to claim 46 above, and further in view of "Get Real: using real options in security analysis" by Michael J. Mauboussin of Credit Suisse First Boston (further referred to as Mauboussin).

As per claims 49 and 51

Bielinksi discloses identifying one or more elements of value that make a casual contribution to an organization market value (pages 1-7).

Bielinski does not disclose computing a difference between a real option value calculated using the company cost of capital as the discount rate and a value calculated using a real option discount rate comprised of a base discount rate plus a risk factor for each element of value that makes a causal contribution to organization market value; and assigning the value difference to the different elements of value based on their relative contribution to a calculated difference in the two discount rates. However, Mauboussin discloses calculating the difference between real option value using current equity value and discounted cash flow analysis (page 3, section 8; page 15, sections 1-2 and 6) in order to capture the value of real options (page 4, section 1; page 13, section 5) where an evaluation of risk and the difference in value when including real options is allocated to an investment potential (page 5, sections 4-6; page 15, sections 2 and 6) such that an understanding between disparities between discounted cash flows and stock prices can be understood (page 8, section 3; page 13). It would be obvious to one of ordinary skill in the art at

the time of the invention to modify the valuation of real options as disclosed by Bielinski to adapt the computational techniques as disclosed by Mauboussin. The motivation would be to use mathematical techniques which have been determined to best capture the value of real options as an enterprise considers their overall value and conducts stock price analysis.

As per claim 52

Bielsinki discloses identifying one or more value drivers for each element of value (pages 1-7), developing one or more element impact summaries from said value drivers for an organization market value and each of one or more components of value (page 1, sections 1-2; page 2, sections 1 and 7; page 3, sections 7-9; page 4, sections 1-4 and 7), identifying a best fit combination of the element impact summaries and a predictive model algorithm for modeling the organization market value and each of the components of value (page 2, section 1; page 3, sections 7-9; page 4, sections 4 and 7; page 5, section 1; page 6, section 5-6), determining a relative strength for each of the elements of value change vis a vis competitors (page 2, section 1; page 3, sections 7-9; page 4, sections 4 and 6-7), calculating a real option value, identifying a net element contribution to enterprise market value by category of value by combining the results from the processing of steps above (page 3, sections 7-9; page 4, sections 6-7; page 5, section 1; page 6, sections 3-6). Bielinski does not disclose calculating a real option discount rate and calculating the real option value using the discount rate. However, Mauboussin discloses calculating a real option discount rate and calculating the real option value using the discount rate (page 4, section 1; page 5, sections 4-6; page 8, section 3; page 15, sections 1-2 and 6). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation of real options as disclosed by Bielinski to adapt the computational techniques as disclosed by Mauboussin. The motivation would be to use mathematical techniques which have been determined to best capture the value of real options as an enterprise considers their overall value and conducts stock price analysis.

34. Claims 38, 56, 78, 87, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bielinski and Baur as applied to claim 46, 55, and 76 above, and further in view of "Get Real: using real options in security analysis" by Michael J. Mauboussin of Credit Suisse First Boston (further referred to as Mauboussin).

As per claims 38 and 78

Bielinksi discloses identifying one or more elements of value that make a casual contribution to an organization market value (pages 1-7).

Bielinski does not disclose computing a difference between a real option value calculated using the company cost of capital as the discount rate and a value calculated using a real option discount rate comprised of a base discount rate plus a risk factor for each element of value that makes a causal contribution to organization market value; and assigning the value difference to the different elements of value based on their relative contribution to a calculated difference in the two discount rates. However, Mauboussin discloses calculating the difference between real option value using current equity value and discounted cash flow analysis (page 3, section 8; page 15, sections 1-2 and 6) in order to capture the value of real options (page 4, section 1; page 13, section 5) where an evaluation of risk and the difference in value when including real options is allocated to an investment potential (page 5, sections 4-6; page 15, sections 2 and 6) such that an understanding between disparities between discounted cash flows and stock prices can be understood (page 8, section 3; page 13). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation of real options as disclosed by Bielinski to adapt the computational techniques as disclosed by Mauboussin. The motivation would be to use mathematical techniques which have been determined to best capture the value of real options as an enterprise considers their overall value and conducts stock price analysis.

As per claims 56 and 89

Bielinksi discloses identifying one or more elements of value that make a casual contribution to an organization market value (pages 1-7).

Neither Bielinski nor Baur disclose wherein the discount rate for a real option category of value valuation comprises a base discount rate plus a risk factor for each element of value that is causal to organization market value. However, Mauboussin discloses calculating the difference between real option value using current equity value and discounted cash flow analysis (page 3, section 8; page 15, sections 1-2 and 6) in order to capture the value of real options (page 4, section 1; page 13, section 5) where an evaluation of risk and the difference in value when including real options is allocated to an investment potential (page 5, sections 4-6; page 15, sections 2 and 6) such that an understanding between disparities between discounted cash flows and stock prices can be understood (page 8, section 3; page 13). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation of real options as disclosed by Bielinski and Baur to adapt the computational techniques as disclosed by Mauboussin. The motivation would be to use mathematical techniques which have been determined to best capture the value of real options as an enterprise considers their overall value and conducts stock price analysis.

As per claim 87

Bielinksi discloses identifying one or more elements of value that make a casual contribution to an organization market value (pages 1-7).

Bielinski does not disclose computing a difference between a real option value calculated using the company cost of capital as the discount rate and a value calculated using a real option discount rate comprised of a base discount rate plus a risk factor for each element of value that makes a causal contribution to organization market value; and assigning the value difference to the different elements of value based on their relative contribution to a calculated difference in the two discount rates. However, Mauboussin discloses calculating the difference between real option value using current equity value and discounted cash flow analysis (page 3, section 8; page 15, sections 1-2 and 6) in order to capture the value of real options (page 4, section 1; page 13, section 5) where an evaluation of risk and the difference in value when including real options is allocated to an investment potential (page 5, sections 4-6; page 15, sections 2 and 6) such that an understanding between disparities between discounted cash flows and stock prices can be understood (page 8, section 3; page 13). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the valuation of real options as disclosed by Bielinski and Bauer to adapt the computational techniques as disclosed by Mauboussin. The motivation would be to use mathematical techniques which have been determined to best capture the value of real options as an enterprise considers their overall value and conducts stock price analysis.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Stephanie M. Ziegle** whose telephone number is **571.272.4417.** The Examiner can normally be reached on Monday-Friday, 6:30am-3:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **KAMBIZ ABDI** can be reached at **571.272.6702**.

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